

1 HONORABLE RONALD B. LEIGHTON
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7 UNITED STATES DISTRICT COURT
8 WESTERN DISTRICT OF WASHINGTON
9 AT TACOMA

10 RICK GREER,

11 Plaintiff,

12 v.

13 PHILLIPS & COHEN ASSOCIATES,
14 LTD.,

15 Defendant.

CASE NO. 13-cv-6095 RBL

16 ORDER ON PLAINTIFF'S MOTION
17 FOR ATTORNEYS' FEES

18 THIS MATTER is before the Court on Plaintiff Greer's Motion for Attorney's Fees [Dkt.
19 # 13]. Greer seeks \$5,270 in fees, which PCA opposes as unreasonable.

20 Greer sued Phillips & Cohen Associates for violating the Fair Debt Collection Procedures
21 Act because PCA failed to disclose its identity as a debt collector in two voicemails. On
22 February 20, 2014, Greer accepted an Offer of Judgment from PCA "in the amount of \$1,500
23 plus all interest, costs, and attorney's fees as determined by the Court" [Dkt. #12]. Greer and
24 PCA could not agree on reasonable fees, which led to this Motion.

1 Greer's Motion seeks a total of \$5,274 in fees:

2 Attorney	3 Hours	4 Hourly Rate	5 Fees
Jon Robbins	3.0	\$300	\$900
Joe Panvini	15.6	\$225	\$3,510
Chris Bruner, Paralegal	5.8	\$135	\$783
Eric Awerbuch, Law Clerk	.6	\$135	\$81
Total:	25.0		\$5,274

5 Greer's reply increases this to \$6,586.50, to account for additional fees incurred in
6 drafting the reply.

7 PCA argues that Greer's request is facially unreasonable, because the original claim was
8 "meritless" and obtaining the judgment took minimal effort. It also points to Greer's "unclean
9 hands" and the fact that many hours were incurred after the Offer of Judgment. PCA suggests
10 that the fees should be reduced by at least 42% to account for 14.4 excessive hours, which would
11 bring the amount to \$3,037.82.

12 Determining the reasonableness of attorney's fees is within the "sound discretion" of the
13 Court. *Perdue v. Kenny A.*, 559 U.S. 542, 558 (2010). The initial step in determining a
14 reasonable fee is to calculate the lodestar figure, by taking the number of hours reasonably
15 expended on the litigation and multiplying it by the appropriate hourly rate. *Hensley v.*
16 *Eckerhart*, 461 U.S. 424, 433 (1983). The Court should exclude overstuffed, redundant, or
17 unnecessary time. *Id.* at 434. The Court must also consider the extent of Plaintiffs' success, as
18 that is a "crucial factor" in determining an appropriate award. *Id.* at 440.

19 After determining the lodestar figure, the Court should then determine whether to adjust
20 the lodestar figure up or down based on any *Kerr* factors that have not been subsumed in the
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1 lodestar calculation.¹ *Kerr v. Screen Extras Guild, Inc.*, 526 F.2d 67, 69-70 (9th Cir. 1975) cert.
2 denied, 425 U.S. 951 (1976).

3 Despite Greer's technical "success" in this case, the legal issues were far too simple and
4 the procedural requirements too minimal to warrant attorney's fees that are nearly quadruple his
5 judgment award. In the past four years, Greer has filed four bankruptcy petitions and two federal
6 actions against debt collectors. He inappropriately exploits the system by using the court as a
7 mechanism to recover funds to pay his debts. For these reasons, the attorney's fees will be
8 reduced to reflect the hours expended on the case prior to the Offer of Judgment. The Court will
9 award **\$3,037.82** in fees.

10 IT IS SO ORDERED.

11 Dated this 15th day of July, 2014.

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14 RONALD B. LEIGHTON
UNITED STATES DISTRICT JUDGE

21 ¹ The twelve *Kerr* factors are: (1) the time and labor required, (2) the novelty and difficulty of the questions
22 involved, (3) the skill requisite to perform the legal service properly, (4) the preclusion of other employment by the
attorney due to acceptance of the case, (5) the customary fee, (6) whether the fee is fixed or contingent, (7) time
23 limitations imposed by the client or the circumstances, (8) the amount involved and the results obtained, (9) the
experience, reputation, and ability of the attorneys, (10) the 'undesirability' of the case, (11) the nature and length of
the professional relationship with the client, and (12) awards in similar cases. *Kerr v. Screen Extras Guild, Inc.*, 526
F.2d 67, 69-70 (9th Cir. 1975), cert. denied, 425 U.S. 951 (1976). These considerations are consistent with
24 Washington Rule of Professional Conduct 1.5.